GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Visakhapatnam District - Revision Petition filed by Sri M.Trinadh Rao S/o.Matchanna and Smt Gonda Lakshmi W/o.Raghavendra Rao, R/o.Yendapalli(V), Arakuvalley Mandal, Visakhapatnam District before the Government against the orders of the Additional Agent to Government, Paderu, Visakhapatnam in AOS No.45/2004, dt.01.09.2006 in respect of schedule property bearing Sy.No.97/5 land adm.Ac.1.785 and Ac.0.35 in S.No.74/5 situated at Araku (M), Visakhapatnam District – Partly Allowed - Remanded to Additional Agent to Government, Paderu, Visakhapatnam District for disposal according to law - Orders – Issued.

SOCIAL WELFARE (TW.LTR-2) DEPARTMENT

G.O.Ms.No.80 Dated:23.06.2016

Read the following:-

1. Revision Petition filed by Sri M.Trinadh Rao S/o Matchanna, Visakhapatnam, dated:10.11.2016.
2. Govt.Memo.No.13634/LTR-2/2006, dt.02.05.2013.
3. From the Additional Agent to Government/PO., ITDA (FAC) Paderu, Visakhapatnam District Rc.No.112/2006/JA(TW)/ITDA dt.11.07.2013.
4. Govt.Lr.No.13634/LTR-2/2006, dt.28.03.2016.

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ORDER:-

In the reference first read above, Sri M.Trinadh Rao S/o.Matchanna R/o.Yendapalli (V), Arakuvalley Mandal, Visakhapatnam District has filed Revision Petition before the Government against the orders of the Additional Agent to Government, Paderu, Visakhapatnam in AOS No.45/2004, dt.01.09.2006 in respect of schedule property bearing Sy.No.97/5 land adm.Ac.1.785 and Ac.0.35 in S.No.74/5 situated at Araku (M), Visakhapatnam District.

2. In the reference 2nd read above, Government have admitted the said Revision Petition and requested the Additional Agent to Government , Paderu, Visakhapatnam District to furnish the parawise remarks and connected records on the Revision Petition.

3. In the reference 3rd read above, the Additional Agent to Government, Paderu, Visakapatnam District has furnished parawise remarks along with the connected records.

4.The admitted facts of the case are as follows:

1. The above Appeal Petition was filed against the orders in OS No.45/2004 dt.01.09.2006 of Additional Agent to Government cum Project Officer, ITDA, wherein the Additional Agent to Government/Project Officer, ITDA, Paderu has held that the appellants herein shall be ejected from the land measuring an extent of 35 cents in Sy.No.74/5 and thereafter the same be restored to the tribe by name Goluboina Gasi. Against the said order the present appeal is filed by the Appellants contending interalia that the order of the ejectment of appellants is arbitrary and illegal, that on 08.10.2004 the respondent herein sold the land to the second appellant Lakshmi on 02.05.2003 by an unregistered sale deed the said Lakhsmi daughter-in-law of first appellant (non-tribe) is Bagata ST and she was given in marriage with the son of first appellant and as such the transaction is between two tribes it is not hit by LT regulations, and that the Court below erred in not issuing notice to second appellant Lakshmi.

On having gone through record it is found that the second appellant obtained a decree in her favour in AOS.15/2006 dt.30.04.2007 in the Court of Assistant Agent to Government cum Agency Subordinate Judge, Paderu where by permanent injunction was granted restraining the respondent herein from inter fearing with the plain schedule property measuring an extent of 35 cents in Sy.No.74/5 of Yendapalli Valasa Village of Padmapuram Panchayat in Arakuvalley Mandal, which is against the Judgment passed by the learned Additional Agent to Government in the case Number AOS 45/2004 dt.01.07.2006.

(P.T.O)

While so the learned agency sub-ordinate Judge also passed orders in Letter No.M.RC.No.7/2012/LDT, dt.17.03.2012 directing the SHO to implement the orders passed in AOS. 15/2006 dt.30.04.2007. Therefore the orders of Additional Agent to Government passed in AOS 45/2004 dt.01.09.2006 are eclipsed.

During enquiry, it is stated by the appellant's counsel that the respondent herein did not prefer any appeal against the orders passed by Agency Sub-ordinate Judge in AOS 15/2006 dt.30.04.2007, while so the appellants herein appear to have filed a writ petition in WP.24533/2006 wherein there was an interim direction to maintain status-quo, with regard to possession of the land pending further orders in WPMP 31363/2006 dt.24.11.2006. Subsequently the writ petition was disposed by Hon'ble High Court directing the Government to dispose of the present Appeal within two months by its orders dated.16.8.2011.

The appellant state that the respondent herein has asked for restoration of the land measuring an extent of Hc.1.785 in Sy.No.97/5 of Padmapuram village but the appellants did not have possession and they never claimed the said land in Sy.No.97/5 however the first appellant claims that he is pattadar of land in Sy.No.74/4 of Yendapalli Valasa Village in Padmapuram Panchayat.

According to appellants the claim is only with regard to the land of 35 cents in Sy.No.74/5.

While so the appellants herein obtained orders in W.P.No.24533/2006 before the Hon'ble High Court dt.16.08.2011 concerning the land measuring an extent of 35 cents in Sy.No.74/5 of Padmapuram Village and the Hon'ble High Court while disposing the said writ petition has directed that the above appeal petition be disposed of within 2 months and further respondent therein (i.e., Sri Goluboina Gasi S/o.Ugadi) be impleaded as respondent in the appellant and there shall be status-quo maintained during pendency of the appeal petition and interim orders were passed during the currency/pendency of the above writ petition. The said respondent Gasi was already impleaded in the appeal as the same was against him also and he did not enter any appearance as per the appeal record.

The appellant submit that they do not have any claim with regard to the land in Sy.No.97/5 measuring an extent of Hc.1.785 of Padmapuram village.

While so the Agency Sub-ordinate judge passed judgment in AOS 15/2006 dt.30.04.2007 granting permanent injunction in favour of appellance and the said judgment is passed against Goluboina Gasi.

The main contention of the appellants is that they were not given adequate opportunity by the learned Additional Agent to Government. The injunction decree passed in AOS.15/2006 dt.30.04.2007 by Agency Sub-ordinate Judge is staring at the face of the respondent herein. In view of the above circumstances the Government is of considered opinion that both the parties shall be given opportunity to submit their fresh pleadings and it is desirable to have trial of the matter afresh in the interest of both the parties more so in view of the fact that the second appellant and the respondent (Goluboina Gasi) are Schedule Tribes.

5. Therefore, the Government after going through entire record is of considered opinion that the order of Additional Agent to Government passed in A.O.S 45/2004 is not sustainable and hence the same is set aside.

6. In the result the appeal is allowed in part by remanding the matter to Additional Agent to Government, Paderu for disposal of the suit according to law and he is directed to dispose of the said suit a fresh by giving opportunity to both the parties to present their respective pleadings, afresh and adduce evidence in support of their respective claims and thereafter the said suit shall be disposed of according to Law, with in a period of six months from the date of receipt of this order. Meanwhile status-quo with regard to the possession as existed on ground as on the date of orders of Hon'ble High Court i.e., dt.16.08.2011 shall be maintained.

(P.T.O)

7. The Additional Agent to Government, Paderu, Visakhapatnam District is requested to take necessary action in the matter accordingly.

8. The original record bearing A.O.S No.45/2004 received from the Additional Agent to Government/Project Officer, ITDA, Paderu, Visakhapatnam District, through reference 3rd read above, is returned herewith and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P.SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To:
The Collector & Agent to Government, Visakhapatnam District.
The Additional Agent to Government & Project Officer, ITDA
Paderu, Visakhapatnam District.(w.e.)
The Special Deputy Collector, (Tribal Welfare)
Copy to:
Sri M.Trinadh Rao S/o.Matchanna Rao, R/o.Yendapalli (V), Arakuvalley Mandal, Visakhapatnam District.
Sri Galuboina Gasi, S/o.Ugadi,R/o.Padmapuram Village, Araku Valley Mandal, Visaka District.
The P.S to Hon'ble Minister (SWE & TWE) for information
The P.S to Principal Secretary to Government (TW)
SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER